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5 Attorneys for Defendant
MAYTAG CORPORATION, erroneously sued herein as
6 WHIRLPOOL CORPORATION, d/b/a MAYTAG

7
8 **UNITED STATES DISTRICT COURT**
9 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
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11 CALIFORNIA STATE AUTOMOBILE
12 ASSOCIATION, INTER-INSURANCE
BUREAU,

13 Plaintiff,

14 vs.

15 WHIRLPOOL CORPORATION, d/b/a/
16 MAYTAG and DOES 1 through 50, inclusive,

17 Defendant.

No.

**DEFENDANT MAYTAG
CORPORATION'S ANSWER TO
COMPLAINT IN SUBROGATION FOR
DAMAGES**

(Alameda Superior Court No.: RG 08 373190)

Jury Trial Demanded

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19 COMES NOW Defendant MAYTAG CORPORATION ("Maytag"), erroneously sued herein as
20 WHIRLPOOL CORPORATION, d/b/a MAYTAG, and answers the Complaint as follows:

21 **GENERAL ALLEGATIONS**

- 22 1. Maytag admits the allegations of Paragraph 1.
23 2. Maytag lacks information and belief concerning the matters set forth in Paragraphs 2
24 and 3, and based thereon, admits those allegations.
25 3. Maytag admits the allegations of the first two sentences of Paragraph 4, and denies
26 the final sentence, beginning with the word "Some" and ending with the word "MAYTAG."

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1 4. Maytag lacks information and belief concerning the matters alleged in paragraphs 5,
2 6, 7 and 8, and based thereon denies same.

3 5. Maytag denies the allegations of Paragraphs 9, 10, 11, 12 and 13, further denying that
4 Plaintiff has been damaged in any amounts, or at all, as a result of any acts or omissions of Maytag.

5 **FIRST CAUSE OF ACTION AGAINST PLAINTIFF**

6 6. Responding to the allegations of Paragraph 14, Maytag incorporates by reference its
7 admissions, denials and other responses to the paragraphs referred to therein.

8 7. Maytag denies the allegations of Paragraphs 15 and 16, further denying that Plaintiff has
9 been damaged in any amounts, or at all, as a result of any acts or omissions of Maytag.

10 **SECOND CAUSE OF ACTION AGAINST PLAINTIFF**

11 8. Responding to the allegations of Paragraph 17, Maytag incorporates by reference its
12 admissions, denials and other responses to the paragraphs referred to therein.

13 9. Maytag denies the allegations of Paragraphs 18, 19 and 21, further denying that Plaintiff has
14 been damaged in any amounts, or at all, as a result of any acts or omissions of Maytag.

15 10. Responding to the allegations of Paragraph 20, Maytag denies that any dishwasher it
16 manufactured or sold was defective, and in all other respects, lacks information and belief
17 concerning the matters alleged, and based thereon, denies same.

18 **THIRD CAUSE OF ACTION AGAINST PLAINTIFF**

19 11. Responding to the allegations of Paragraph 22, Maytag incorporates by reference its
20 admissions, denials and other responses to the paragraphs referred to therein.

21 13. Maytag denies the allegations of paragraphs 23, 24, 25 and 26, further denying that Plaintiff
22 has been damaged in any amounts, or at all, as a result of any acts or omissions of Maytag.

23 **AFFIRMATIVE DEFENSES**

24 **FIRST AFFIRMATIVE DEFENSE AGAINST PLAINTIFF**

25 This answering Defendant alleges that Plaintiff's insureds were guilty of negligence in and
26 about the matters and things complained of in the Complaint, that such negligence is imputed to

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1 Plaintiff in this subrogation matter, and that such negligence contributed directly and proximately to
 2 the happening of the accident, and to the damages, if any, by Plaintiffs sustained.

3 **SECOND AFFIRMATIVE DEFENSE AGAINST PLAINTIFF**

4 It is alleged that the injuries sustained by Plaintiff, if any, were either wholly or in part
 5 negligently caused by persons, firms, corporations or entities other than Defendant, and said
 6 negligence is either imputed to Plaintiff by reason of the relationship of said parties to Plaintiff
 7 and/or said negligence comparatively reduces the percentage of negligence, if any, by this answering
 8 Defendant.

9 **THIRD AFFIRMATIVE DEFENSE AGAINST PLAINTIFF**

10 This answering Defendant alleges that Plaintiffs and/or others misused and abused the
 11 product which is the subject matter of this action in a manner not reasonably foreseeable to
 12 Defendant, and that said misuse and abuse were the sole and exclusive proximate cause of the
 13 damages, if any, by Plaintiffs sustained.

14 WHEREFORE, this answering Defendant prays that Plaintiffs take nothing by their
 15 Complaint herein, that this matter be hence dismissed, that Defendant recover its costs of suit, and
 16 for such other and further relief as to the Court seems just and proper.

17 **DEMAND FOR JURY TRIAL**

18 Defendant WHIRLPOOL CORPORATION, d/b/a MAYTAG hereby demands a trial by
 19 jury in this matter.

20 DATED: March 26 , 2008

ADAMS | NYE | TRAPANI | BECHT LLP

21 By: 

22 BRUCE NYE
 23 Attorneys for Defendant
 24 MAYTAG CORPORATION, erroneously sued
 25 herein as WHIRLPOOL CORPORATION, d/b/a
 26 MAYTAG
 27
 28

CERTIFICATE OF SERVICE

I, **MARY KATHRYN EARLE**, am over the age of eighteen years, not a party to the above-captioned matter, and employed by **Adams | Nye | Trapani | Becht LLP**, located at 222 Kearny Street, Seventh Floor, San Francisco, California 94108-4521, where the service described below took place on the date set forth below.

Person(s) Served:

Counsel For Plaintiffs:

**Robert E. Wall, Esq.
Laura Uddenberg, Esq.
Grunsky, Ebey, Farrar & Howell, PLC
240 Westgate Drive
Watsonville, California 95076
Telephone: (831) 722-2444
Facsimile: (831) 722-6153**

Document(s) Served:

**DEFENDANT MAYTAG CORPORATION'S ANSWER
TO COMPLAINT IN SUBROGATION FOR DAMAGES**

Manner of Service:

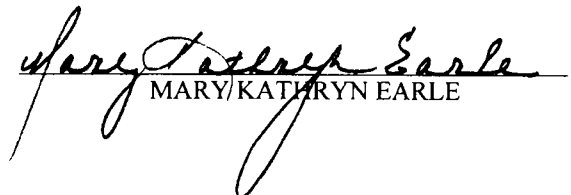
 X **Mail:** I am readily familiar with my employer's practice for the collection and processing of correspondence for mailing with the United States Postal Service: such correspondence is deposited with the United States Postal Service on the same day in the ordinary course of business in the county where I work. On the date set forth below, at my place of business, following ordinary business practices, I placed for collection and mailing by deposit in the United States Postal Service a copy of each Document Served, enclosed in a sealed envelope, with the postage thereon fully prepaid, each envelope being addressed to one of the Person(s) Served, in accordance with Code of Civil Procedure 1013(a).

 Facsimile: I transmitted by facsimile a copy of each Document Served mentioned above to each Person Served mentioned above pursuant to Code of Civil Procedure 1013(e).

 Personal service: I caused a copy of each Document Served to be hand delivered to each Person Served pursuant to Code of Civil Procedure 1011. If required, the actual server's original proof of personal service will be filed with the court.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: March 26, 2008


MARY KATHRYN EARLE